

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL ALAN HILL,
Plaintiff,

v.

JEFF LEIKAUF, et al.,
Defendants.

No. 2:23-cv-1593 AC P

ORDER AND FINDINGS &
RECOMMENDATIONS

By order filed April 22, 2025, the complaint was screened and found to not state a claim for relief. ECF No. 32. Plaintiff was given thirty days to file an amended complaint and cautioned that failure to do so would result in a recommendation that this action be dismissed. Id. at 7. Near the deadline, plaintiff filed a notice stating that “the best thing for me to do is allow you to dismiss the complaint for ‘too much supporting evidence.’” ECF No. 33.

On May 19, 2025, the court issued an order informing plaintiff that if he wants to dismiss this case, he must file a notice explicitly stating that he wants to voluntarily dismiss the case. ECF No. 34 at 1. The court cautioned that if he does not voluntarily dismiss the case and fails to file an amended complaint, a dismissal by the court could potentially count as a strike under 28 U.S.C. § 1915(g) because the first amended complaint was screened and found not to state a claim. Id. Plaintiff was given twenty-one days from the service of the order to either (1) notify the court that he wishes to voluntarily dismiss this case or (2) file an amended complaint.

1 Plaintiff was again warned that failure to do so would result in a recommendation that this action
2 be dismissed for failure to state a claim and failure to prosecute. Id. at 2.


3 On June 25, 2025, after plaintiff failed to file a notice of voluntarily dismissal, an
4 amended complaint, or otherwise respond to the court's May 19, 2025, order, the court gave
5 plaintiff an additional twenty-one days to file an amended complaint or voluntarily dismiss this
6 case. ECF No. 35. The court, once again, warned plaintiff that "[f]ailure to take any action will
7 result in a recommendation that this action be dismissed for failure to state a claim for relief and
8 for failure to prosecute. No further warnings will be provided." Id. at 2. More than twenty-one
9 days have now pass, and plaintiff has not filed a notice of voluntary dismissal, an amended
10 complaint, or otherwise responded to the court's May 19 and/or June 25 orders.

11 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
12 assign a United States District Judge to this action

13 IT IS FURTHER RECOMMENDED that the complaint be dismissed for failure to state a
14 claim for the reasons set forth in the April 22, 2025, Screening Order (ECF No. 32). See L.R.
15 110; Fed. R. Civ. P. 41(b); 28 U.S.C. § 1915A.

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
18 after being served with these findings and recommendations, plaintiff may file written objections
19 with the court and serve a copy on all parties. Such a document should be captioned "Objections
20 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
21 objections within the specified time may waive the right to appeal the District Court's order.
22 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

23 DATED: August 13, 2025

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25 ALLISON CLAIRE
26 UNITED STATES MAGISTRATE JUDGE
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